



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 4, 2004

Mr. John Fitzpatrick
229 Back Ashuelot Road
Winchester, New Hampshire 03470

CERTIFIED MAIL (7099 3400 0003 0688 2140)
RETURN RECEIPT REQUESTED
LETTER OF DEFICIENCY
No. ARD 2004-003

RE: Improper Asbestos Removal

Dear Mr. Fitzpatrick:

On February 11, 2004, the New Hampshire Department of Environmental Services, Air Resources Division ("DES"), received information that APK Construction had demolished and burned the remains of a fire-damaged house owned by you and located at 229 Back Ashuelot Road, Winchester, NH (the "Property").

On February 12, 2004, DES personnel went to the Property to determine if asbestos containing material ("ACM") had been disturbed during the demolition project, and to determine conformance with provisions of RSA 141-E and the NH Admin. Rules Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution*, Env-A 1800, *Asbestos Management and Control*, and RSA 125-C. DES personnel photographed the remaining debris from the demolition and took several samples of suspected ACM from the ash pile for laboratory analysis. The lab results confirmed that the disturbed material was in fact ACM.

As a result of the inspection and information gathered, this Letter of Deficiency ("LOD") is being sent to identify the following deficiencies:

- Env-A 1803.03 requires each facility operator to provide written notification to the division, the EPA Regional Office, and the city/town health officer, as applicable to the worksite location, in accordance with Env-A 1803.06 at least 10 working days before any demolition activity begins. This notification shall be required regardless of the amount of ACM, if any, which is contained in the facility. DES never received written notification from either you or APK Construction.

Env-A 1804.01 requires that before undertaking any demolition or renovation, each facility operator shall provide for an inspection, by a competent person, of the affected portion(s) of the facility for the presence of ACM. Env-A 101.80 defines a "competent person" as someone capable of identifying asbestos hazards and who has completed, at a minimum, a training course for asbestos inspectors. DES never received any information indicating that an inspection for ACM was performed.

Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05 (d) allows periodic on-site burning by the landowner of brush, leaves and untreated wood from the construction or demolition of a building, provided the material originates on-site. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.

Env-A 101.54 defines "brush" as tree tops, limbs, saplings and tree cuttings that are five inches in diameter or less.

Env-A 101.286 defines "untreated wood" as any timber, board or sawn dimensional lumber, which has not been treated, coated or preserved.

DES believes that the deficiencies can be resolved by taking the following action:

- Within 30 days of receipt of this LOD, provide written proof in the form of a waste shipment record that the asbestos waste remaining on the Property was disposed of properly at a permitted disposal facility.
- Please send the requested information to the attention of Stephen Cullinane at the following address:

NHDES Air Resources Division
Compliance Bureau
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Please be advised that DES will continue to monitor the clean up and any further demolition activities at the Property. DES believes that you can avoid the improper disturbance of ACM and the health hazards and liability that are associated with exposure to asbestos by complying with Env-A 1800, *Asbestos Management and Control*.


If you believe that DES has cited these deficiencies in error or if you have any questions or require additional information regarding this matter, please contact Mr. Steve Cullinane, Asbestos Program Manager, Compliance Bureau, Air Resources Division, at (603) 271-1373 or Joseph Ritz, Compliance Bureau, Air Resources Division, at (603) 271-1391.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

 List of asbestos abatement contractors
Env-A 1800

cc: G. Hamel, Legal Unit Administrator
W. Toland, EPA Region 1
M. Guilfooy, NHDES
W. Kelly Jr., Chairman, Winchester Board of Selectmen
G. Morse, Winchester Forest Fire Warden
B. Stewart, DRED
AFS # 3300083333